

WISCONSIN STATE
LEGISLATURE
COMMITTEE HEARING
RECORDS

2003-04

(session year)

Assembly

(Assembly, Senate or Joint)

Committee on
Campaigns &
Elections
(AC-CE)

File Naming Example:

Record of Comm. Proceedings ... RCP

- 05hr_AC-Ed_RCP_pt01a
- 05hr_AC-Ed_RCP_pt01b
- 05hr_AC-Ed_RCP_pt02

Published Documents

➤ Committee Hearings ... CH (Public Hearing Announcements)

➤ **

➤ Committee Reports ... CR

➤ **

➤ Executive Sessions ... ES

➤ **

➤ Record of Comm. Proceedings ... RCP

➤ **

*Information Collected For Or
Against Proposal*

➤ Appointments ... Appt

➤ **

➤ Clearinghouse Rules ... CRule

**

➤ Hearing Records ... HR (bills and resolutions)

➤ **03hr_ab0113_AC-CE_pt01**

➤ Miscellaneous ... Misc

➤ **

Vote Record

Committee on Campaigns and Elections

Date: 3/6/03

Bill Number: 113

Moved by: Freese

Seconded by: Gund.

Motion: passage

Committee Member

Representative Stephen Freese

Aye

No

Absent

Not Voting

Representative Mark Gundrum

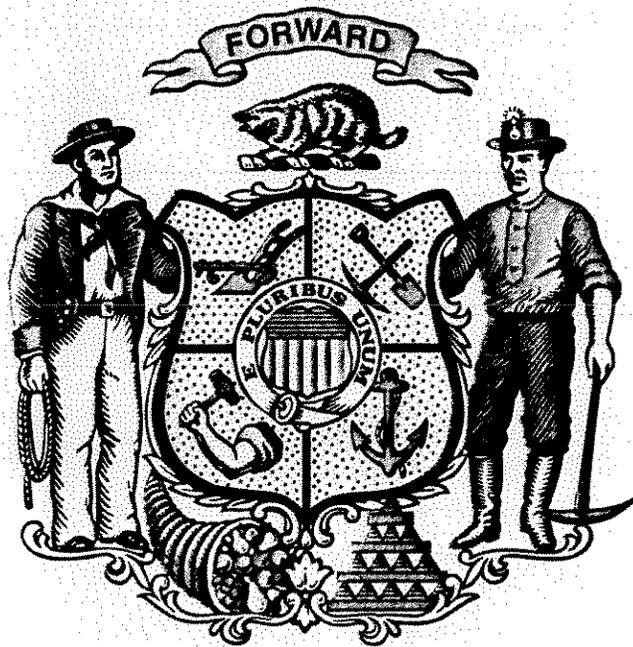
Representative Glenn Grothman

Representative Jeffrey Wood

Representative David Travis

Representative Mark Pocan

Totals: 6 0 _____



Richard, Rob

From: Richard, Rob
Sent: Tuesday, March 04, 2003 4:00 PM
To: 'Cecelia A. Stencil'
Subject: RE: Voter REgistration
Ms. Stencil:

Thank you for contacting our office with your thoughts on elections in this state. Our office is currently working on a number of election reform proposals to clean up the election process, in fact, Rep. Freese is holding a public hearing on 13 proposals Thursday.

Not included in Thursday's package is a plan to establish a state-wide voter registration list. The federal Help America Vote Act of 2002 requires that each state set up this list, which would allow us to track whether felons are trying to vote. This bill is currently being worked on and should be ready for introduction sometime this spring.

I hope this helps to answer your question. Again, thank you for contacting our office.

Sincerely,

Rob Richard, Legislative Aide
Office of Rep. Steve Freese
888-534-0051

-----Original Message-----

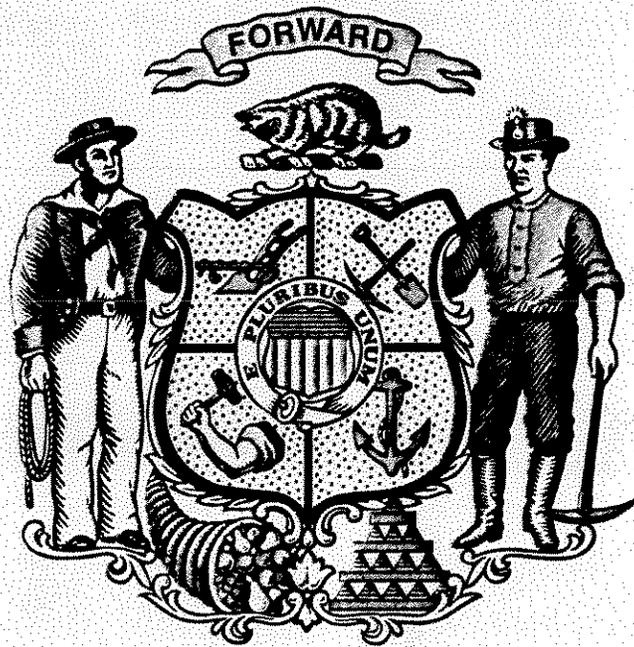
From: Cecelia A. Stencil [mailto:castencil@centurytel.net]
Sent: Tuesday, March 04, 2003 2:59 PM
To: rep.freese@legis.state.wi.us
Subject: Voter REgistration

Dear Rep Freese

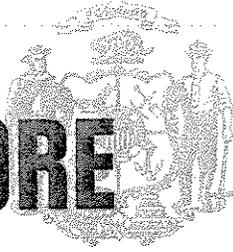
I read with great interest your proposed bill about voter identification. Along with that, I think the state or each county should be required to send each municipality a list of felons. Besides being a county employee, I am a town clerk-treasurer. Election clerks do not get paid enough to take the chance of challenging John Q Public's right to vote because they think he might be a felon.

Your thoughts would be appreciated.

Cecelia Stencil
Rusk County Recycling Coordinator
Town of Big Bend Clerk Treasurer



State Senator GWENDOLYNNE MOORE



Capitol Office:
P. O. Box 7882, Madison, WI 53707-7882
Phone: (608) 266-5810 Fax: (608) 267-2353
District Telephone: (414) 442-3080
Toll-free Legislative Hotline: 1-800-362-9472
E-Mail: sen.moore@legis.state.wi.us
Member: Joint Finance Committee
Board Member: Wisconsin Housing and
Economic Development Authority

Testimony of State Senator Gwendolynne Moore on Numerous Assembly Bills Assembly Committee on Campaigns and Elections March 6, 2003

Thank you for allowing me the opportunity to submit this written testimony in my absence. I would like to thank Chairman Freese and the members of the Assembly Committee on Campaigns and Elections for holding this public hearing to discuss numerous Assembly Bills that seek to modify Wisconsin's election process.

As you know, it is a fundamental function of government to ensure that each citizen truly has equal and unimpeded access to the ballot box and that every American voice is properly recorded. It is also important for the judicial branches of government to pursue the vigorous enforcement of laws when deliberate election fraud does indeed occur. However, as legislators, we must balance our duty to safeguard our system from election fraud with our duty to protect the voter's rights. We must not be swayed to alter the basic tenets of our election laws based solely upon the *perceived* fear of voter fraud. We must proceed with extreme caution when we entertain any legislation under the guise of "reform" that could compromise the franchise of our citizens. Ultimately, the voter's right to participate in the election process must be paramount.

Legislation that is being considered today, in particular Assembly Bill 111 (AB 111), is just such a proposal that severely threatens our citizens' franchise instead of providing any real electoral reform. **A voter should not be required to show a valid Wisconsin driver's license or photo id in order to receive their ballot.**

Disguising their proposals as necessary "election reforms" which would ensure the integrity of the system, Republican partisans are continually proposing new initiatives that would disproportionately disenfranchise Wisconsin's low-income, minority, elderly, handicapped, homeless, and student populations. Now Republicans seek to capitalize on a never previously utilized absentee ballot provision to justify implementation of an onerous voter ID bill. I am deeply troubled by Representative Freese's attempt to capitalize on the recent allegations of voter fraud that have been identified in recent **Milwaukee Journal Sentinel** articles. Rep. Freese exploited this recent development by publishing a press release that misleads readers to believe AB 111 would have prevented this alleged voter fraud. Obviously, AB 111 does not address the concerns raised by the ACE incident, as Rep. Krug and Rep. Ladwig have recently introduced absentee ballot legislation to deal with this specific issue.

What AB 111 does do is place undue and unnecessary burden on some of our most vulnerable voters, including our low-income, minority, elderly, disabled, homeless and student citizens, by

requiring all voters – regardless of whether they are registered or not – to present a DOT-issued Wisconsin driver's license or photo ID in order to obtain a ballot. In essence, this measure is an unconstitutional **poll tax** on those whose grasp on the franchise is currently most vulnerable; the elderly, the low-income and the homeless, or handicapped. Individuals will still have to pay to obtain a birth certificate or other identifying information. Further, they could lose work time, wage compensation, or other financial support all in order to obtain an unnecessary ID.

Additionally, AB 111 is fiscally irresponsible, as it severely increases state spending by mandating the DOT to provide necessary identification free of charge for all citizens. During this time of state fiscal uncertainty, it is negligent for Republican legislators to create such an enormous fiscal impact on state government. It was estimated that AB 259, last session's voter ID legislation, which also would have provided an ID card free to anyone who requested it, would have cost the state \$850,000 annually. The author of AB 111 chose an inopportune time to introduce this legislation, as it is a time when our state is bracing itself for a \$4.2 billion deficit, the like of which our state has not faced since the Great Depression!

Just a few weeks ago Republicans restored \$22 million in cuts to the Transportation Fund proposed within the Governor's budget adjustment bill. It is extremely ironic with our state's enormous deficit that now this Republican proposal is proposing expensive new ideas to the already overly stressed DOT budget. In fact, DOT previously estimated that it would require 3 additional full-time employees to fulfill the photo ID mandate. This is distressing, and seemingly irresponsible, at a time when the state is considering eliminating 2,900 state jobs.

The Department of Transportation (DOT) estimates that roughly 130,000 people across the state do not have the kind of documentation referred to in this legislation. Furthermore, the DOT estimates that only 20% of these people would ever get necessary documentation if AB 111 became law. That means that roughly 100,000 Wisconsin residents currently without DOT-issued photo identification, many of who are elderly, low-income, minority, homeless, or handicapped, would be disenfranchised by this bill.

Many of these people do not have the time or the resources to go to the DMV to obtain identification simply to vote. For example, if AB 111 were passed, a low-income person would be forced to jeopardize their employment or utilize precious vacation time to visit the DMV. Further, an elderly person who may have health problems would have to stand in the DMV line for hours to maintain their franchise. Adding to that hardship, many DMV offices have been eliminated or have had their hours of operation reduced due to budget cuts.

Furthermore, students from out of state who study at Wisconsin's colleges and universities and are eligible to vote in this state would not be allowed to present photo identification from their home state or a Wisconsin university identification card in order to prove their identity. They, too, would have to go to the DMV to obtain a Wisconsin photo identification card.

Many of Wisconsin's most diligent voters have been registered at the same address and have voted at the same polling station for most of their adult lives. This is particularly true in Milwaukee's inner city, where many low-income minority voters have never had the kind of photo identification required in AB 111.

Most states do not require an identification card, photo or otherwise, for their state's registered voters. In fact, only state, South Carolina, a state that still refuses to remove the Confederate flag from its state capitol, requires all voters to present a photo ID or be denied the right to vote. Moreover, **29 states are precluded by state statute from asking for any kind of voter identification at the polls.** Instead, AB 111 seeks to depart from this group of states and "reform" our electoral system by disenfranchising voters.

AB 111 could potentially undermine the provisional ballot process. Under AB 111, if you fail to provide a valid DOT-issued Wisconsin photo id, your secretly cast vote will be put aside as a provisional ballot, and you will have until 4 pm the day after the election to obtain the necessary ID and prove your identity. One day is not sufficient time to procure an ID if you were born in another state and need to obtain a birth certificate, or have other work demands. If you fail to prove your identity your vote will not be counted!

Voter registration by corroboration must not be repealed. Currently, a person who does not have a residential address can vote if that person brings with them to the polls another registered voter from the same municipality. This means that homelessness in Wisconsin does not mean disenfranchisement. AB 111 would require the voter to show photo id even in the presence of corroboration. We should not strip a voter of his or her rights simply because that person lacks an address or a photo id. According to the January 8, 2001, edition of the Journal of the American Medical Association, 1% of the US population is homeless throughout the course of a year.

The mere *perception* of voter fraud provides no factual basis, no compelling interest, to change the tenets of Wisconsin's open election system, which consistently produces one of the highest voter turnouts in the nation and encourages voters from all walks of life to participate in our democracy. Wisconsin has a long, proud history of progressive election laws and of inclusiveness in the electoral process.

In fact, Wisconsin was one of the first states to give immigrants the right to vote. In 1848, our state's Constitution allowed immigrants to vote as they declared their intention for naturalization. For over 150 years, our state has sought to make the polls as accessible as possible to new voters.

Many have attempted to exploit charges of voter fraud in Milwaukee during the 2000 election. In that election, Milwaukee District Attorney McCann found that out of the 361 individuals with criminal backgrounds who were accused of voter fraud, only 3 had not had their civil rights restored. **McCann did not press charges against these three individuals because they were unaware that they were disqualified from voting.**

Now, under the guise of election "reform", the bill being debated here today will have the effect of disenfranchising many of Wisconsin's poor, minority, elderly, handicapped, homeless, and student voters, many of whom tend to vote Democratic. **While I certainly hope that the intent of this proposal is not to silence the voices of Wisconsin's most vulnerable who happen to vote Democratic, the effect of this proposal will do just that.**

I am equally concerned by the ramifications of **Assembly Bill 122 (AB 122)**, which like AB 111 disenfranchises voters rather than enacting real election reform. **This controversial, divisive and unnecessary bill seeks to single out one particular constituency, prohibiting them from contributing to political campaigns and therein severely limiting their access to the political process.** Anyone who receives income from a gaming establishment would lose his or her right to play a role in the political process. Gaming operators, including casinos, lotteries and racetracks that violate this law would face a Class I felony, a fine of \$10,000 and possible imprisonment of not more than three years and six months!

The bill's drafting notes reveal that there are potential constitutional questions regarding the infringement of equal protection rights of persons who earn their income from gaming operations. Should the concept of singling out constituency groups be considered constitutionally acceptable, this bill should be expanded to include all corporations and entities that routinely "influence" campaigns and elections. Unless AB 122 prohibits all groups that influence campaigns from contributing, the bill is unjust and possibly unconstitutional.

And lastly, I would like to voice additional comments about several of the other eleven bills that the committee is considering here today:

I believe that **Assembly Bill 113** would do little to impact the election process in Wisconsin. Proponents argue that people who view results through media outlets prior to poll closings may be persuaded by the preliminary results and may opt not to vote. This legislation does not address these concerns, as most preliminary results publicized prior to 10 pm are national, particularly from east coast states whose polls close earlier than Wisconsin's due to time zone. I feel that federal legislation would be the proper outlet for addressing this concern, as it should impact the entire nation, not just the state of Wisconsin.

I support **Assembly Bill 114** as a fair proposal that intends to provide uniform polling hours and will provide greater opportunity for citizens to exercise their constitutional right to vote.

Under current election law, every vote cast, including all write-ins, are counted. **Assembly Bill 115** intends to disenfranchise voters who cast write-in votes for candidates that have failed to declare candidacy in the time specified in the bill. Every vote should

count, whether it is cast for a candidate on the ballot or is written-in by the voter. AB 115 disenfranchises voters and the election process.

County boards of supervisors, common councils, village board of trustees, town boards of supervisors, county chairpersons or mayors currently have the authority to fill temporary vacancies in their respective levels of government. **Assembly Bill 118** takes away local control and instead creates an un-funded mandate for local government and taxpayers. By mandating automatic special elections to fill all vacancies for local elected positions, Wisconsin taxpayers will bear significant additional election costs. With the looming multi-billion dollar state deficit as well as deficits at the local level, it is not a stretch to say that citizens are more concerned about increased government spending then filling short-term vacancies in current elected positions.

The change in campaign finance reporting proposed by **Assembly Bill 119**, which requires that non-resident registrants be held to the same filing requirements as Wisconsin residents, seems to be fair and common sense reform to campaign finance law.

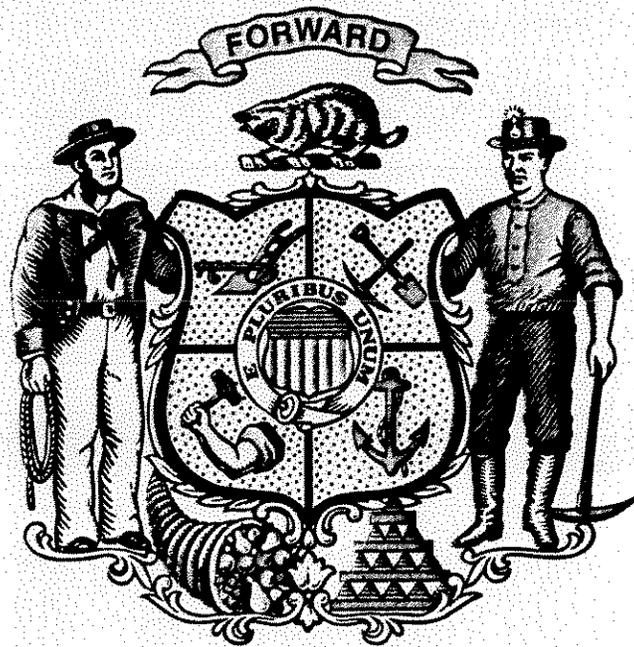
Greater education regarding voting rights should always be encouraged to ensure voter awareness and diminish accusations of fraud. I support the concept of **Assembly Bill 120** as it carries on Wisconsin's tradition of educating citizens about the electoral process. I especially support the provision that gives the court system and the Department of Corrections (DOC) discretion as to how they will notify affected persons. During these times of state fiscal uncertainty, we should be attempting to pass legislative proposals that mandate minimal new fiscal increases on state government. While I have no information on whether this new requirement will create great additional costs to the court system and DOC, I am cautiously optimistic that the intent of the author is to limit such fiscal increases on state government.

Assembly Bill 121 gives municipal bodies the authority to test all polling officials to prove their ability to speak and read English. While it is important that polling officials be able to converse and communicate effectively with those electors at that polling place: I hope this is not a "back door" approach to encourage the introduction of divisive "English Only" proposals.

Finally, I support the section **Assembly Bill 123** that creates a segregated fund and spending authority for the State Elections Board to carry out the federal requirements imposed in the Help America Vote Act of 2002. I reserve judgment at this time of the remaining items within this bill because I am unclear of their effect on the citizens of Wisconsin.

I hope, as you consider your vote on these numerous election bills, the members of this Committee will remember that the integrity of our election system can only be protected by ensuring that every voice continues to be heard.

Thank you for allowing me the opportunity to share my views on bills being discussed at today's hearing.



WISCONSIN NEWSPAPER ASSOCIATION

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Match 11, 2003

To: Members of the Assembly

From: Sandra George, Wisconsin Newspaper Association
Jeff Hovind, Wisconsin **Freedom** of Information Council

Re: **AB113** Delay access to public **inspection** of presidential canvasses.

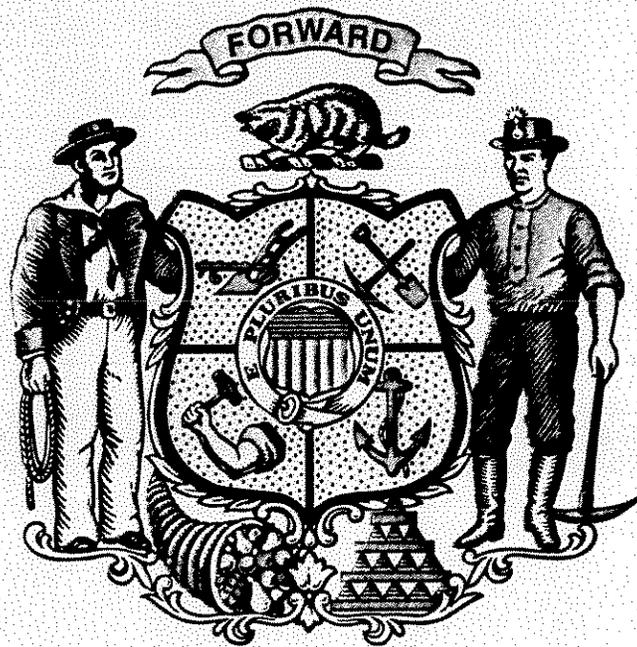
We write representing the newspapers of Wisconsin and the **Freedom** of Information Council.

Funny, after the last presidential election, we thought **there'd** be a desire to have quicker election results, rather than delay them. Yet, this bill would have clerks withhold **from** public **inspection** records of the canvass of the election until 10 p.m. that night.

Since this bill **was introduced** one day and voted out of committee the next, we aren't privy to whatever arguments were made at the hearing. We **are aware** that in the past, **there** were complaints that the winner was declared before polls in western states closed. Since many predictions **are** based on independent surveys of voters, not on the actual results, the media will still be able to declare a winner based on that **methodology**, yet newspapers won't have access to the actual data which they need to confirm that until very late, too late for the deadline for many morning papers. The AP has not predicted winners based upon exit polling data in the past, but would not have an alternative source if this law passed.

Is this bill being **introduced** so that people in California who don't **vote** in the morning feel better about voting? That is not an appropriate reason to shut down access to factual voting information for the Wisconsin **media**. Wisconsin readers and viewers **are** interested in what Wisconsin is **doing**. **Voters** in California aren't using Wisconsin media for information. This is a national issue, not a state issue and this proposal has **been** shot down in **all other states**. This bill would hurt the access of Wisconsin readers and viewers to factual and timely information about our polling results.

We urge that you vote no on A131 13.



March 11, 2003

Rep. Stephen J. Freese
Chair, Committee on Campaigns and Elections
Room 115 West
State Capitol
P.O. Box 8952
Madison, WI 53708

Dear Sir:

On behalf of the Radio-Television News Directors Association ("RTNDA"), the world's largest association devoted exclusively to electronic journalism, I am writing to express the concerns of RTNDA's more than 3,200 members with proposed legislation that would ban Wisconsin county clerks from releasing presidential election voting returns until polls on the West Coast are closed. RTNDA believes this prohibition would unnecessarily interfere with the newsgathering and dissemination process protected by the First Amendment.

As your colleague Rep. Glenn Grothman has recognized, attempts by the government to withhold information from the public raise grave constitutional questions. Efforts to abridge the free flow of information about the political process are of particular concern. As several of our nation's courts have recognized, because of the constitutionally protected nature of election reporting, any attempt by the government to abridge such reporting cannot withstand constitutional scrutiny unless there exists a compelling state interest that cannot be furthered through any less restrictive means. It is well settled that broad restrictions on exit polling, for example, do not serve a compelling state interest. As one court stated, the First Amendment prohibits any ban on speech "on the basis that [the speech] might indirectly affect the voters' choice."

Thus, the general interest in insulating voters from outside influence (particularly voters in other states) underlying Wisconsin's proposed legislation is insufficient to justify speech regulation. As a Washington judge stated, "[w]hen the State through the guise of protecting the citizen's right to a fair and honest election tampers with what it will permit the citizen to see and hear, even that important state interest must give way to the irresistible force of protected expression under the First Amendment." The impact of Wisconsin's proposed legislation would be to dictate the how, what and when of election coverage. Election reporting will take place regardless—should this legislation pass, its consequence will be to force reporters to rely solely on exit polling and more speculative information rather than actual voting returns. If reporters are not able to collect accurate

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Mark Miller
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Jim Ogle
WKYT-TV, Lexington, KY

Paula Pentlarvis
WGNO-TV, New Orleans

Gerry Pheilan
VOCM, St. John's, NF, Canada

Condace Pressley
WSB-AM, Atlanta

Bob Priddy
MissouriNet
Jefferson City, MO

Bill Roswell
KYW-AM, Philadelphia

Susana Schuler
Nexstar Broadcasting Group
Terre Haute, IN

Dan Shelley
WTRM Radio, Milwaukee

Brian Trauring
WATE-TV, Knoxville, TN

Jim Turpin
WAVY-TV, Portsmouth, VA

and timely information about election results, the right to report and publish political news would be left with little means of fulfillment.

The purpose of the First Amendment's free speech and free press guarantees is to foster an informed and educated citizenry and a free democratic society. The freedoms accorded us under the First Amendment sometimes involve, despite journalists' best efforts, mistakes in reporting, whether on the nightly news or in the paper, as was the case in the 2000 presidential election. But, as Thomas Jefferson so eloquently stated, "I would rather be exposed to the inconveniences attending too much liberty than those attending too small a degree of it." Media organizations around the country have conducted internal reviews to assess what went wrong with their election night coverage in 2000, and to take corrective measures to insure the integrity of election night reporting.

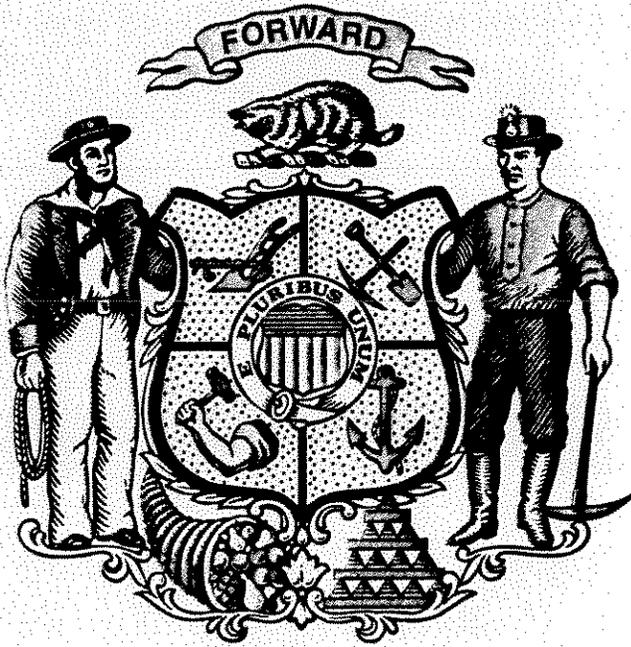
The First Amendment guarantees the media's independence from the type of government interference proposed in this legislation, and RTNDA urges you to abandon it so that the public may be thoroughly and accurately informed about the political process.

Sincerely,

A handwritten signature in cursive script that reads "Barbara Cochran".

Barbara Cochran
President

cc: Dan Shelley, WTMJ-AM, RTNDA Region 4 Director



Richard, Rob

From: Geoffrey D. Peterson [petersgd@uwec.edu]
Sent: Tuesday, March 11, 2003 2:59 PM
To: rep.freese@legis.state.wi.us
Subject: Early Election Release Legislation AB 113

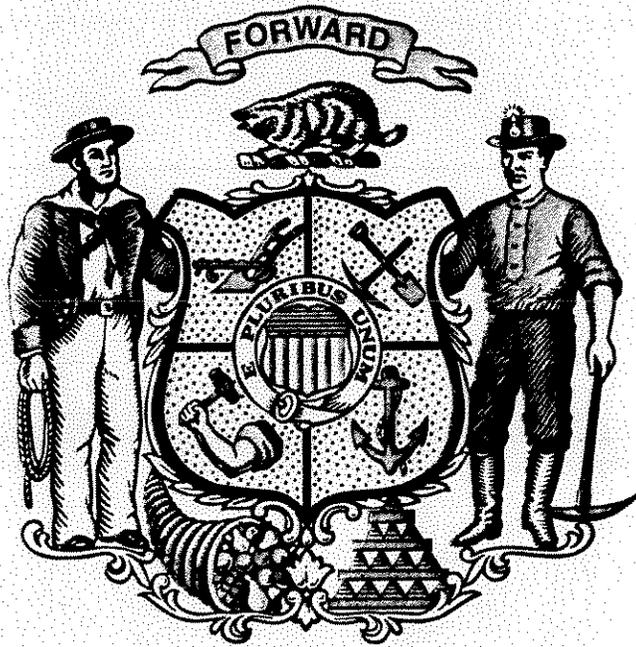
Rep. Freese--

I am writing to thank you for proposing AB 113. As a political scientist, I have done extensive research on the impact of the early release of voting returns on elections, and I strongly believe that your bill is a step in the right direction. I am intimately familiar with virtually all of the research on this topic, and it is abundantly clear to me that something needs to be done about this problem. If there is anything I can do to assist you, please do not hesitate to contact me. I would be more than willing to testify about the extant research on the topic or whatever else may prove helpful in passing this legislation.

Sincerely,

Geoffrey D. Peterson

Geoffrey D. Peterson, Ph.D.
Assistant Professor of Political Science
Director, UW-Eau Claire Political Research Institute
200D Schneider Hall
University of Wisconsin-Eau Claire
Eau Claire, WI 54702-4004
O: 715-836-3641
F: 715-836-2944
<http://www.uwec.edu/petersgd/index.html>



300 Wisconsin Street
Mayville, WI 53050
22 March 2003

*I would like to add - with all the serious
messy budget cuts, and the resulting impact
on many areas, including schools and jobs, one of
the first things legislators could do is to rescind
the most recent pay raise you gave yourselves.*

Assemblyman Stephen Freese,

I strongly agree with your proposal, recently aired on public radio, to wait until all polls in the country have closed before releasing Wisconsin results in presidential elections.

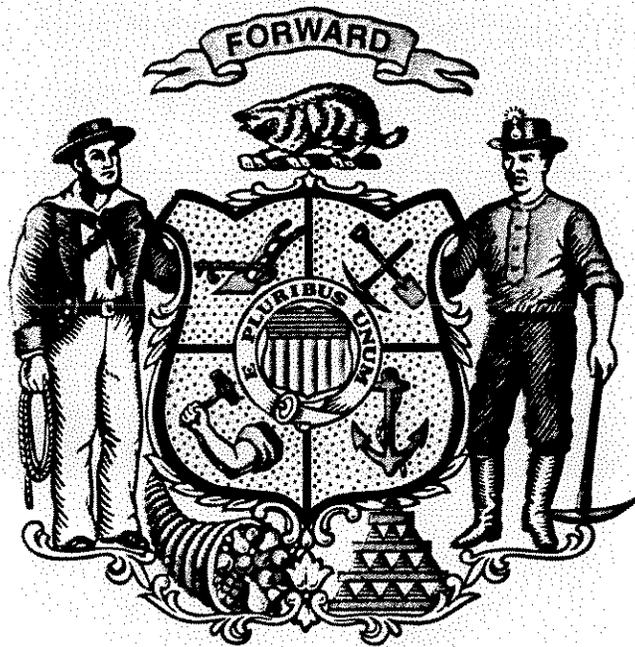
I also feel exit polls should not be allowed since they not only have the possibility of being inaccurate and misleading, but also violate a citizen's right to a secret ballot.

Sincerely

Dotte Adams

Dotte Adams

copies to the Fitzgeralds





March 25, 2003

Rep. Steve Freese
Speaker Pro Tempore and Chair Committee on Campaigns and Elections
Wisconsin Assembly
P.O. Box 8953
Madison, WI 53708

Dear Representative Freese:

I am writing as president of the Wisconsin Associated Press Editors Association, which is made up of the editors of the 36 daily newspapers in Wisconsin which are members of The Associated Press.

I want to express our strong opposition to Assembly Bill 113, which would prohibit Wisconsin's county clerks from releasing vote results in a presidential race before 10 p.m, two hours after the polls close.

Vote results are a matter of public record.

And if there is any situation in which these results should be made public in the most timely fashion, it is to inform the citizens of Wisconsin for whom they have voted to become their next president.

There is no benefit to the citizens of Wisconsin in delaying release of these results. And any benefit in other parts of the country is purely speculative.

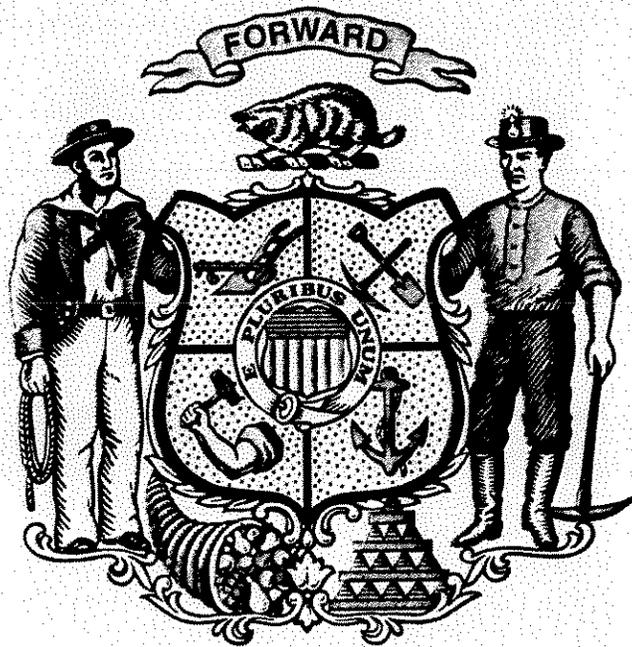
The proposed delay will only encourage some news organizations to call a presidential winner in Wisconsin based entirely on exit polls, rather than using the much more reliable voting returns.

We urge that this legislation not be enacted.

Sincerely,

A handwritten signature in cursive script that reads 'Meredyth Albright'.

Meredyth Albright
Editor
The Rhinelander Daily News
President,
Wisconsin Associated Press Editors Association



Richard, Rob

From: David Moss [dmoss@csg.org]
Sent: Tuesday, April 15, 2003 1:16 PM
To: rep.freese@legis.state.wi.us
Subject: Contact Info

www.nass.org
(202) 624-3525

Leslie Reynolds, Executive Director-
Kay Albowicz, Communications Director-

- I actually spoke to Kay, hope this helps drum up some support-Best Regards, Dave Moss

David A. Moss
Research Analyst / Midwestern Regional Coordinator
Trends Research and Response Group
The Council of State Governments
P.O. Box 11910
Lexington, Kentucky 40578
(859) 244-8138
Fax (859) 244-8001
dmoss@csg.org

2760 Research Park Drive
P.O. Box 11910
Lexington, Kentucky 40578-1910
(859) 244-8138
FAX: (606) 244-8001



Fax

To: Rep. Freese	From: David Moss
Fax: 608.282.3651	Pages: 7
Phone:	Date:
Re:	CC:

- Urgent For Review Please Comment Please Reply Please Recycle

● **Comments:**

Apr-14-03

02:43pm

From-CSG LEXINGTON

18592448001

T-225

P.003/007

F-502



NATIONAL ASSOCIATION OF SECRETARIES OF STATE

RESOLUTION

WHEREAS, many Secretaries of State in the West, have testified that early election projection returns result in decreased voter turnout, and

WHEREAS, exit polling and the premature announcement of results is a subject of great concern to all election administrators across America; and

WHEREAS, some television networks continue to announce results based only on exit polling; and

WHEREAS, some television networks continue to announce election results before the polls close in that jurisdiction;

NOW THEREFORE BE IT RESOLVED that all Secretaries of State and election administrators give consideration to including exit polling limitations in their election statutes and call on the television networks and local affiliates to stop announcing results based on exit polling before the polls close.

ADOPTED this 29th day of June,
1983 in Bismarck, North Dakota



Rose Mottford
ROSE MOTTFORD, President

Paul Riviere
PAUL RIVIERE, Recording Secretary

Apr-14-03 02:43pm From-CSG LEXINGTON

18592448001

T-225 P.002/007 F-502



NATIONAL ASSOCIATION OF SECRETARIES OF STATE

RESOLUTION

WHEREAS the joint effort set up by the National Television Networks to make projection in the New Hampshire primary reported results that were significantly incorrect; and

WHEREAS projection and exit polling when improperly assessed, inaccurately reported and released prior to poll closing may negatively impact the election process; and

WHEREAS election results projections sometimes have been made before the polls close in America with those projections having adversely affected voter turnout and election results; and

NOW THEREFORE BE IT RESOLVED

the National Association of Secretaries of State gathered for its National Winter Conference in Austin, Texas, call upon the National Television Networks to cease the release of exit polling and projection data until verified for accuracy. Never should the data be released before poll closing. In the case of national elections, no data should be released before polls are closed across the country.

Adopted this 25th day of February, 1992, at the Winter Conference in Austin, Texas.



Hon. Dick Molpus, NASS President

Hon. Rufus Edmisten, NASS Secretary

Apr-14-09 02:43pm From-CSG LEXINGTON

10592448001

T-225 P.004/007 F-502

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 Secretary of State
 State of California

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TESTIMONY OF THE HONORABLE BILL JONES
CALIFORNIA SECRETARY OF STATE

SUBMITTED TO THE U.S. HOUSE OF REPRESENTATIVES
COMMITTEE ON ENERGY AND COMMERCE
FEBRUARY 14, 2001

Mr. Chairman and members of the Committee, I want to thank you for the opportunity to submit testimony to you for your review and consideration as you evaluate the news media's early projections in the November 7, 2000, presidential election.

As I review the events of November 7th, clearly, network and cable television were premature in their rush to call at least one pivotal state (Florida) and one U.S. Senate race (Washington) on Election Night, only to back off of those verdicts before signing off the air the next day. This "rush to judgement" was not only irresponsible it was a terrible waste. The closest election in 40 years could have been the starting point for a new generation of voters discovering the virtues of civics.

I can't help but feel personal dismay, as my job is to improve voter turnout and re-install confidence in our voting process. In fact, as we moved closer to Election Day, we also moved closer to my goal of 100 percent participation by all eligible Californians when we announced the highest number of registered voters ever in California - more than 15.7 million. A record 3.2 million requests for absentee ballots and the closeness of the contest at the top of the ticket also helped to set the stage for what we knew could be a record-high level of voter turnout.

Ironically, thanks to the great job the media did across the country, our voters were armed with information about the electoral college, what states were "must wins" for which candidates and were ready to make their voices heard. That's why on Election Night, the media's premature announcements had such a detrimental effect on our voters in the West - as we knew they would. One wonders if those voters will return to the polls in the next election. If they don't, they are the real losers in this controversy - not the candidates.

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Hon. Bill Jones
U.S. House Committee
On Energy and Commerce
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How then should a voter vent his or her frustration? Taking it out on the media is not a lasting solution, although I do believe that voters upset by the events of Election Night should tell the networks how they feel. But instead of engaging in media bashing let's find a creative means of preventing the media from making the same mistake it makes most election years.

Yes, the networks were guilty of malpractice on Election Night. How could the news media ethically project a winner in Florida when the polls were still open in parts of the state where voting was still taking place? It's unconscionable. Additionally, because there was a two-hour gap between the time the five major networks first called Florida for Vice President Gore until it was returned to the undecided column, voting in that state and elsewhere in America may have been unduly affected. Consider those Californians, stuck in rush hour traffic between 4:50 p.m. and 7:15 p.m. on the West Coast, when Florida was a "decided" state. Those would-be voters were subjected to the impression of a looming Gore victory – in part, because of the early and wrong results in Florida. Republicans may have bothered not to vote, feeling the cause was lost; the same could be true of those Democrats who may have skipped voting because they felt the election was already in the bag for Al Gore.

This issue of early projections based on exit polling and the devastating effect it has on voters in the Western United States is one I have wrestled with since taking office in 1995. In California this is a critical and nonpartisan issue – and has been for more than two decades. And the voters surveyed over the years agree. Consider the following data:

- A University of Michigan study conducted after the 1980 presidential election found that after early projections (5:15pm P.S.T.) of a Ronald Reagan victory, the possibility of voters going to the polls decreased by 6 percent in the East, by 9 percent in the South, and 12 percent in both the Midwest and the West. The study also found that among those who had not yet voted, Republican turnout dropped by 17 percent and Democratic turnout dropped by 13 percent on the West Coast after hearing the projections.
- In a poll conducted by the Field Institute entitled "Attitudes Toward Media Coverage of the November 1980 Presidential Election" 10 percent of those surveyed who indicated they were registered but did not vote specifically blamed their failure to vote on the early network projections.
- After the 1984 election, the Committee for the Study of the American Electorate found that after the networks announced (5:02pm P.S.T.) Ronald Reagan's reelection that nearly 80 percent of states whose polls were still open suffered declines in voter turnout. According to the report, the majority of

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states whose polls closed before the network announcements benefited from an increase in voter turnout.

During my first presidential election as California's Secretary of State in 1996, I was successful at getting several of my fellow Western States Secretaries of State to join me in taking a run at the networks to refrain from projecting winners based on exit polling. An effort that yielded little cooperation from the networks, but precipitated strong sentiment among Californians as I was repeatedly stopped in airports, restaurants and at public events by voters who told me to "keep up the fight; don't let them call elections until we've voted." While it's always rewarding to hear one's constituents agree on policy positions, I was looking for a little more agreement from the networks.

That's why in 1998 I approached the bipartisan National Association of Secretaries of State to enlist their support for this effort. As fellow elected officials, I think you'll agree that to get 100 percent of your membership to agree on any policy is a major accomplishment – and that's what we were able to achieve. In 1998, all 50 of America's Secretaries of State (including those states where the election duties are carried out by their lieutenant governors) endorsed the policy and requested that the news organizations refrain from calling elections until we – the chief elections officers – report the results.

How, then, to prevent this from repeating itself in the 2004 election? It just so happens that I offered a solution to the five major news networks (ABC, CBS, CNN, Fox, NBC) when I spoke with them by phone and in writing on Friday, November 3rd, just a few days before this year's Election Night events occurred. (NOTE: Attached for Committee review are the 1996, 1998 and 2000 letters to the networks.) In each contact with the news executives our request has been the same: rather than jumping to faulty conclusions based on the "fuzzy math" of exit polls, we believe it's incumbent upon the news media to stop treating projected results of votes in East Coast states as actual results – not when some polls are still open back East, certainly not when voting is reaching its second peak out West. Let the nation's Secretaries of State declare the winners, then let the media report the news. This would avoid future debacles like Florida, where a mere 1,500-vote sampling has thrown this nation in political tumult.

The good news is that the networks are not out-and-out opposed to this proposed reform of their Election Night coverage. In my pre-election discussions with the networks' executives, Roger Ailes, chairman and chief executive of Fox News, agreed that early projections based on preliminary exit polling data from the eastern states can have a negative effect on turnout in the West. As a veteran of presidential campaigns, he speaks from experience. Mr. Ailes indicated his willingness to have Fox New hold off on making such projections, on the condition that all networks played by the same rules. Unfortunately, when the other four networks rejected my overture, any possible agreement fell apart. Television is a competitive practice, and no network will agree to

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"disarm," if you will, and not rely on exit polls when the other networks refuse to act with the same restraint.

And that's the key word here: restraint. With more Americans turning to television as the preferred medium for making political decisions, the pressure increases on the major news networks to rise above the partisan fray.

- Coverage from the campaign trail has to be balanced and objective.
- Coverage on Election Night has to rely on two tenets:
 - 1) Are we certain of what we are about to report?
 - 2) Will what we're about to report unfairly change the night's outcome?

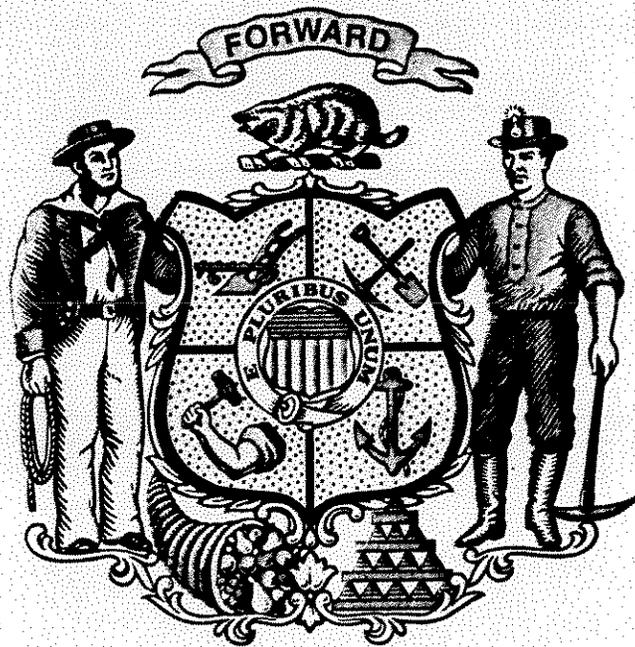
Another potential solution may rest with the Secretaries of State. If the networks refuse to exercise the necessary restraint, one recommendation recently suggested would have the nation's Secretaries of State hold actual presidential election results until 7:00 p.m. or 7:30 p.m. P.S.T. in order to avoid any impact on voter turnout in the Western United States.

The networks have a choice: they can take the Secretaries' of States offer and try to restore a sense of fairness and balance to their Election Night coverage, or they can continue to do things their way. I hope they pay close heed to what the voters are telling them because they are clear on this issue. According to a recent survey by The Pew Research Center for the People and the Press, 52 percent of respondents felt that the early projection that Vice President Gore won the state of Florida had an effect on other voters. More significant, however, is that an overwhelming 87 percent of respondents indicated that the news media should wait until votes are counted before announcing winners. To borrow a line from the movie *Network*, "voters are mad as hell and they're not going to take it anymore."

This is not an insurmountable challenge for the networks, and it's obvious that some type of good-will gesture is needed. Indeed, I'm encouraged by some recent reports by the networks that they will adapt their procedures for their election night reporting. Too many voters have emerged from this election with serious doubts as to whether the media is an asset or a liability to the voting process. Ironically, in this Information Age, they doubt the very information before them on their TV screens. The offer is still on the table: in the next election, leave the vote counting to the Secretaries of State, leave the announcing of results to the networks, and we won't have the same retractions.

I look forward to working on this problem together and remain committed to implementing sound solutions that will empower our voters to participate and have confidence in the integrity of our election process — from the first vote cast to the last vote counted.

#-#-#



Richard, Rob

From: Kathy Bernier [KBernier@co.chippewa.wi.us]
Sent: Thursday, June 26, 2003 4:00 PM
To: Richard, Rob
Subject: Re: Elections

Thank You!

Kathy Bernier

----- Original Message -----

From: Richard, Rob
To: 'Kathy Bernier'
Sent: Friday, June 20, 2003 2:57 PM
Subject: RE: Elections

Kathy:

Thank you for contacting our office to share your concerns about the election results embargo bill and the voter ID bill. While I will definitely share your thoughts with Steve, I thought I'd take a few minutes to quickly answer your questions or at least explain where Steve is coming from with regard to these two issues.

Embargo Bill (AB 113) -

This past year, Steve co-chaired the Midwest Council of State Government's Elections Task Force with MN Senator Steve Kelly. That task force made 35 recommendations on election reform - embargoing the results of elections was one of those recommendations. We are fully aware that the media's thirst for calling elections early can't be quenched, but this was one way (we believe legally) that we can attempt to prevent what happened in 2000. The National Commission on Election Reform has also made this recommendation and is asking states to implement it. Wisconsin is the first state to lead the way on this issue.

AB 113 passed the Assembly and currently is in a Senate Committee.

Voter ID Bill (AB 111) -

Under the HAVA Bill provisional ballots will be required for first-time out-of-state voters anyway. I believe there currently is no federal requirement for when those ballots have to be counted. As part of the Voter ID Bill, we expanded the provisional ballot measure to prevent the "disenfranchisement" of those who forget and/or don't have a valid ID. While we believe every voter should be able to and is quite capable of getting a valid ID before any election is held, this measure ensures that we take away some Milwaukee legislators' arguments that we will disenfranchise the elderly, poor, disabled and everyone else. Sen. Joe Leibham was working on an amendment for "10:00 am next day cutoff" for provisional ballots, but eventually gave up because of partisan bickering, and the fact that the Governor is likely to veto the bill anyway.

AB 111 passed the Assembly and Senate and awaits messaging to the Governor's Office.

Hope this information helps!

Rob Richard, Legislative Aide
Office of Rep. Steve Freese
888-534-0051

-----Original Message-----

From: Kathy Bernier [mailto:KBernier@co.chippewa.wi.us]
Sent: Tuesday, June 17, 2003 9:22 AM
To: Rep.Freese@legis.state.wi.us
Cc: Martha Hess; Pete Hanson; Scott Suder

Subject: Elections

Dear Representative Freese,

Problem #1**Withholding Election Results until 10:00 PM**

Running elections is a very stressful and complicated process. Now that the Federal Government has passed HAVA, it could get even more stressful, not that I mind, because I don't think that you can put a price tag, or stress level on the integrity of an election. However, as a fellow republican there is something you need to think over. It is not the County Clerk who was responsible for calling an election with 17% of the vote and with a margin of error that exceeded the vote margin. It was the media/Voter News Service. And, if we do not post the information to the website, then the media will be here asking for the information and calling it into Voter News Service, so the end result will not change. I believe the law is that if we have the information, we have to give it out (FOIA). The statistics are not the problem. Calling the election with a small percentage of the vote in, is the PROBLEM. Media control is the solution, hah!

Problem #2**Provisional Ballots**

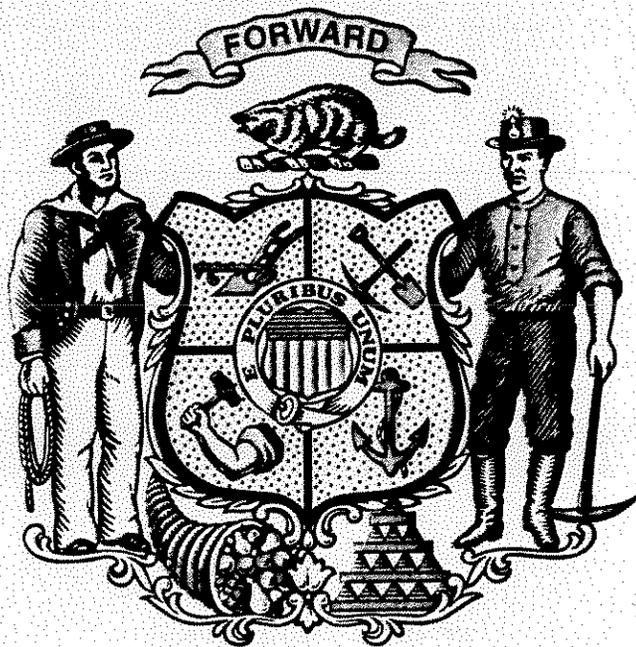
It is my understanding that you are proposing that a person can have up to 1:00 PM the next day to provide ID for their provisional ballot. That is not possible and will likely not happen at the local level. First, Wisconsin has same day registration. A person certainly can go home get an ID and come back. It is possible to keep the ID verification open until 9:00, since the poll workers/clerks will likely still be at the polling place. The problem with the next day is that the clerk is likely at his/her "other" job and he/she has already delivered the ballots and reports to the County Clerk. Once ballot bags are sealed they cannot/should not be reopened. This in itself may compromise the integrity of the election.

The County Clerks have taken a stand on these two issues and these two items are the result. With the exception of the 9:00 PM, that was my thought.

I appreciate you efforts in the assembly and trying to make the election process error/cheat free. Please let me know if these issues have been addressed and where they are in the process.

Sincerely,

Kathy Bernier, Chippewa County Clerk





Wisconsin Speaker Pro Tempore
Representative Stephen J. Freese

November 25, 2003

The Honorable Senator Mike Ellis
Chairman, Senate Committee on Education, Ethics and Elections
Room 118 South, State Capitol
Madison, WI 53702

Dear Chairman Ellis:

There are a number of Assembly Bills concerning general election reform issues awaiting a public hearing in your Senate committee. I am respectfully requesting that you hold a public hearing on the following bills at your earliest convenience:

- Assembly Bill 113, relating to the public inspection of the records of the canvass of elections for the offices of president and vice-president.
- Assembly Bill 114, relating to polling hours.
- Assembly Bill 115, relating to filing of declarations of candidacy and recording of votes received by write-in candidates in certain elections.
- Assembly Bill 116, relating to use of moneys from the Wisconsin election campaign fund to make certain false representations.
- Assembly Bill 518, relating to requirements for certification for a chief inspector position.

It is my hope that we can at least have an open and honest discussion of these bills in a public hearing, and move forward with these bills in the coming months.

Thank you for your attention to my request!

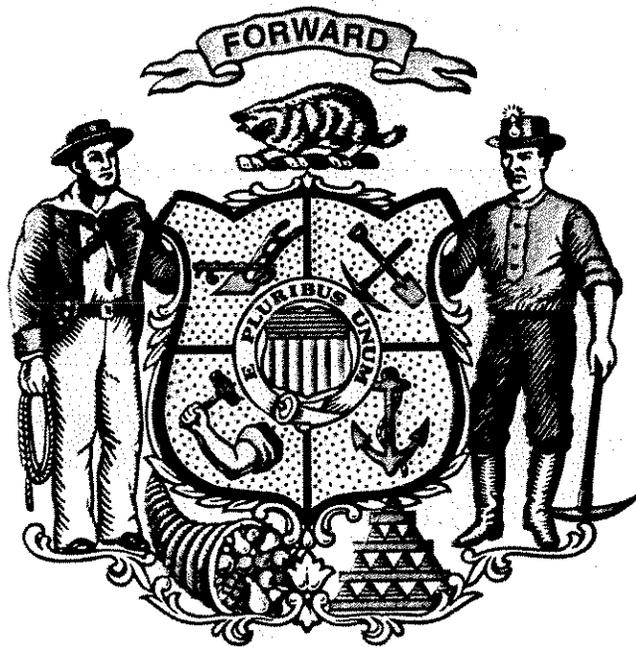
Sincerely,

Stephen J. Freese
State Representative

Fifty-First Assembly District

Office: Post Office Box 8952 • Madison, Wisconsin 53708-8952 • (608) 266-7502 • Fax: (608) 261-9474 • Rep.Freese@legis.state.wi.us
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Committee Hearing

The Committee on Energy and Commerce
W.J. "Billy" Tauzin, Chairman

Election Night 2000 Coverage by the Networks

Full Committee on Energy and Commerce
February 14, 2001
11:00 AM
2123 Rayburn House Office Building

Witness List & Prepared Testimony

Panel 1

Mr. Ben Wattenberg
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Retired Director
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Knight Fellowship Program
Stanford University 394 Diamond
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Panel 2

Mr. Roger Ailes
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Officer
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1211 Avenue of the Americas
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Mr. Andrew Heyward
President
CBS News
524 West 57th Street
New York, New York, 10019

Mr. Tom Johnson
Chairman and Chief Executive
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Mr. Andrew Lack
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30 Rockefeller Plaza
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Mr. David Westin
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Mr. Ted Savaglio
Director
Voter News Service
225 West 34th Street
New York, New York, 10122

Mr. Louis D. Boccardi
President and Chief Executive
Officer
Associated Press
50 Rockefeller Plaza, 7th Floor
New York, New York, 10020

Member Statements

There are no prepared Member Statements currently available.

Hearing Transcript: Printed

The printed transcript of this hearing is available in both Adobe Acrobat and text/html versions.

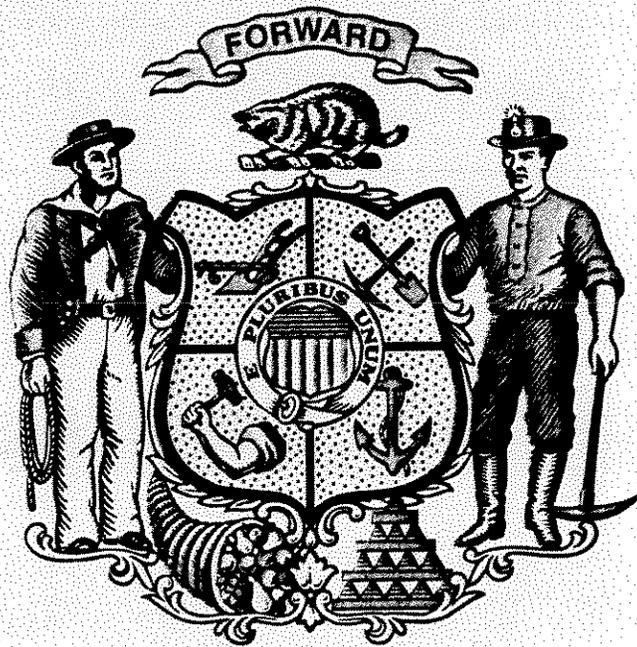
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Other Hearing Documents



EARLY CALLS: THE EFFECT ON VOTING

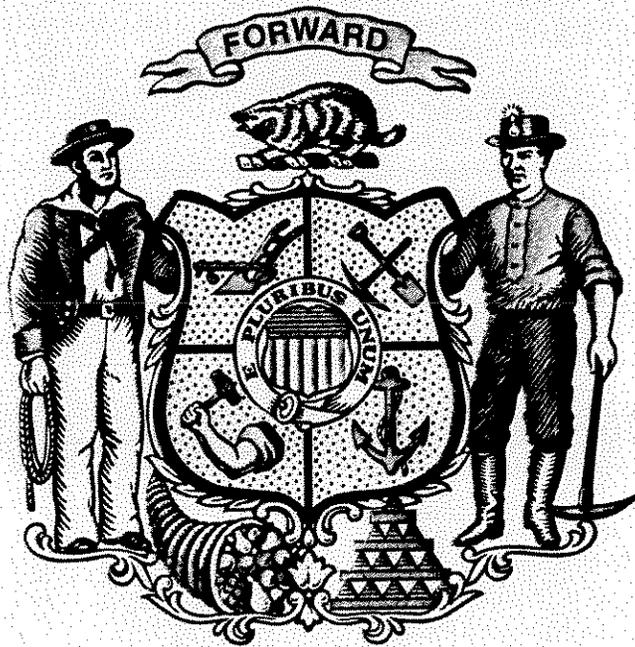
Aside from the accuracy of network calls, the timing of those calls became an issue on Election Night 2000, and again the focus was on Florida, where 5 percent of the potential voters are in the Central Time Zone and have a poll-closing time that is one hour later than in the rest of the state. After studying this issue, we are recommending a change in CBS News policy.

After every election, there are outraged cries from voters and politicians in states with two time zones, charging that the media have somehow interfered in the election process by calling or characterizing the race before all the polls in the state have closed. And even before the days of television coverage, there were complaints by voters in the Pacific Time Zone that before they had finished voting, results were being reported which could lead some not to bother to vote, thinking that the election was already decided.

Current CBS News policy on calls in states with more than one poll-closing time has not changed since the networks' agreements with Congress in the early 1980s, when CBS News pledged that it would not call or characterize a race in any state until the vast majority of its polls had closed. The "vast majority" phrase is used because of the different patterns in the 12 states where the polls do not all close at the same time. In three of those states--Alabama, North Dakota and Oregon--CBS News reports the results at the time of the later close, because a large percentage of polling places remain open until then. In Alaska, two Aleutian precincts, representing a tiny portion of the electorate, vote by mail. In three other states, the percentage of the voting-age population remaining after the first polls close is between one and 3 percent: in Texas it is 3 percent, while in Kansas and Michigan it is one percent.

There are five other states, however, where the percentages are larger but where CBS News policy has allowed a call after the first polls close. Florida has 5 percent of the voting-age population remaining when the first polls close, Indiana has 18 percent, Idaho has 22 percent, and Kentucky and New Hampshire have 25 percent. Some of these states start reporting the tabulated votes at the first poll-closing time, so a news organization that waited for the later poll closing would be in the awkward position of withholding information that has already been disclosed by the precincts or counties themselves. Any new policy for states with more than one poll closing time must attempt to reconcile the public's right to this information with any potential effect on voters.

Now let us consider the related point, the question of whether projections of national winners in the East and Midwest affect voters in the West. While there is no research proving that Western voters are dissuaded from voting by results in other states, CBS News has long advocated a simple way to allay this concern: a uniform national poll-closing time. Moreover, we use our broadcasts, especially on Election Night, to encourage people who have not yet voted to do so. In her independent review of Election Night 2000, Dr. Kathleen Hall Jamieson writes: "Contrary to the hypothesis that the early call in Florida for Gore discouraged West Coast voters, I have suggested that CBS News' coverage of the race as close was likely to lead those in the West to conclude that their



POSTSCRIPT: THE CHARGE OF BIAS IN CALLING RACES

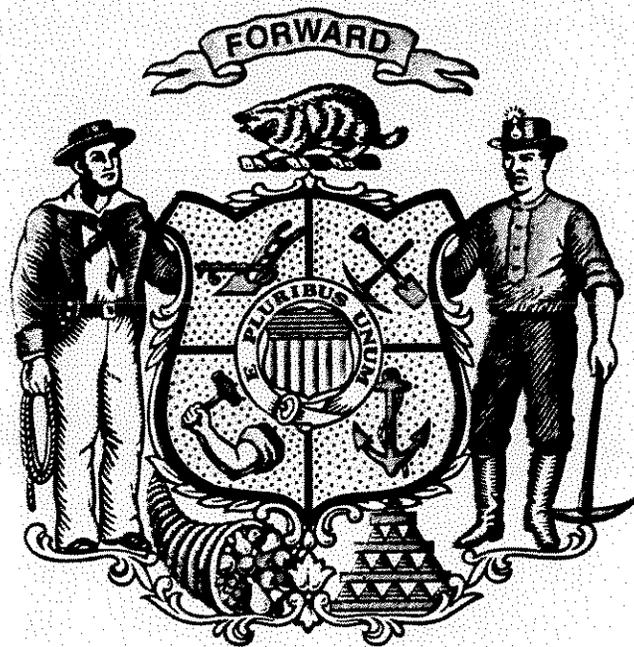
In a press conference held November 9, 2000, Republican Congressman W. J. "Billy" Tauzin of Louisiana expressed concerns about mistaken network calls on Election Night and accused the networks of being slow to call states carried by George W. Bush. At a later press conference, he reiterated the charges and specifically stated that there was "probable bias." In a December 11 letter to CBS News President Andrew Heyward and the other network news organizations, he called it "incontrovertible bias."

Congressman Tauzin's charge is that while the networks called the states that Al Gore carried by "6 points or more" at poll closing, they "delayed" calls for Bush in a number of states that Bush carried by similar margins. Congressman Tauzin's allegation is serious and needs to be addressed.

After a close examination of CBS News' coverage, we have concluded that there is no evidence of either intentional or unintentional bias in the timing of the calls.

There are many valid reasons why no two calls are alike. Exit-poll data and actual votes reported at or near poll-closing times do not always reflect the "final margin," which is used as the basis for Congressman Tauzin's charge. For one thing, there is always sampling error, which will be larger in some states than in others because of the size of the exit-poll sample. Moreover, some states count votes more slowly than other states and report counts later. And, as we have seen in Florida, but even more spectacularly in Washington State, absentee ballots play an increasing role in deciding the winner. The "margin" at poll closing or even hours later may not reflect the final outcome.

Was there a difference in the pattern of calls for Bush and Gore in states with similar final margins on election night? Some of the call times Congressman Tauzin cites are not the CBS News calls, but we were concerned with what CBS News did on Election Night. We examined first the states with final margins in double digits, then the states with final margins between 6 and 9 points, and finally the states where the final margin was 5 points or less.



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Freese, R-California?

An editorial
March 12, 2003

State Rep. Steve Freese is supposed to serve the people of southwestern Wisconsin in the Assembly. But Freese seems to be more interested in representing California.

Freese recently introduced a bill that would prohibit county clerks in Wisconsin from releasing the results of presidential voting in Wisconsin to the people of Wisconsin until polls on the West Coast are closed. According to Freese, his intent is to prevent Wisconsin results from influencing voting in states like California, Oregon and Washington.

Wisconsinites would be within their rights to ask: What could possibly be wrong with our sentiments influencing folks on the West Coast? Wouldn't America be a better place if more Americans thought - and voted - like Wisconsinites? We certainly think so, and if Freese disagrees, then perhaps he might want to relocate to a state where the voting patterns are more to his liking.

Wisconsinites would also be within their rights to ask: Does Steve Freese seriously think folks in Los Angeles, San Francisco and Fresno could be influenced by developments in Wisconsin? If so, why doesn't he tell the Californians to stop jamming their cows full of rBGH and claiming that their state is now "America's Dairyland"?

And, of course, Wisconsinites would be very much within their rights to ask: Why would Steve Freese try to set up a situation where Wisconsinites would know how Michigan, Illinois, Iowa and Minnesota voted for president but would be denied the results from their home state until California has finished voting?

The only way to ensure that voting in one part of the country does not influence voting in other regions is to establish national rules for voting times and the release of

results. If Wisconsin's representatives in Washington want to get involved in such an initiative, that is their right. But for Wisconsin's Legislature to try to tie the hands of Wisconsin's county clerks is silly - unless the legislators are operating under the mistaken assumption that it is their job to put California's interests ahead of Wisconsin's.

Published: 6:11 AM 3/12/03

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